



## FREQUENTLY ASKED QUESTIONS

- Q What documents are required for examination purposes?
- A An examination consists of a review of loan files and any documents relating to your company's status and financial well being, regardless of the type of license you hold. In addition to the loan files, the documents you will be asked to provide include, but not limited to the following:
- Corporate or organizational documents evidencing "Good Standing". (This encompasses the home state Certificate of Incorporation and the Foreign Corporation Certificate)
  - Trade name certificates
  - List of owners, officers, directors (or members, partners, limited partners)
  - Current financial statements to include a balance sheet and a profit / loss statement
  - The most recent federal income tax return
  - A list of correspondent lenders or brokers.
  - Work papers supporting the figures reported on your most recent annual report
  - Current interest rate sheets
  - Written consumer complaints
  - Copies of any insurance agreements available through your company
  - A summary of all loan products offered by your company
  - A list of all affiliates, subsidiaries, parents with whom your enterprise is associated
  - Copies of media advertisement distributed in New Hampshire.
  - A copy of your company's procedure manual.
  - A list of current lending or brokering licenses issued by other states.
  - Copies of GNMA, FNMA, FHLMS approval letters if you issue Rate Lock Commitments
- Q I am licensed as a First Mortgage Banker / Broker / Second Mortgage Home Loan Lender. I have been notified of an upcoming examination of my activities. What documents are required to be kept in the loan files for examination purposes?
- A The following is a list of documents the examiners review as part of the examination process. Even if you are only licensed as a broker, not banker, we require that you provide complete loan files, which would be copies of all paperwork generated during the lending process. The department, during the examination reviews at a minimum not limited to:
- The 1003 credit application
  - The note
  - The mortgage
  - The good faith estimate
  - The truth-in-lending (initial and final)
  - The HUD-1 or HUD-1A (initial and final)
  - The appraisal
  - The Affiliated Business Arrangement disclosure
  - The Equal Credit Opportunity Act disclosure (adverse action notice)
  - The credit report
  - The 1008 Uniform Underwriting Worksheet
  - All verifications performed such as VOEs and VORs
  - All re-disclosures provided to the applicant during the lending process
  - Copies of the "Privacy Statements" given to the applicant

Q I am licensed as a Sales Finance company. I have been notified of an upcoming examination of my activities. What documents are required to be kept in the loan files for examination purposes?

A The following is a list of documents the examiners review as part of the examination process. We require that you provide complete loan files, which would be copies of all paperwork generated during the lending process. The department, during the examination reviews at a minimum not limited to:

- The Retail Installment contract
- The Purchase and Sales Agreement (purchase order)
- The Detailed Payment Transaction history
- All Receipts for payments made in cash
- Copies of any warranties / service agreements sold with the vehicle
- A list of correspondent retail sellers (motor vehicle dealers)
- In addition to the above, all repossession files must also include:
  - The NH Affidavit of Repossession
  - The Notice of Default
  - The Notice of Disposition
  - The Vehicle Damage form
  - The Auction Consignment form

Q I am asked to provide “Work papers to supplement and document information supplied on the annual report filed with this office on February 1, 2003” as part of the examination. What work papers are the department asking for?

A You are required to file with the department an “Annual Report” each year on or before February 1, “concerning the operations for the preceding year...” The department, as part of the examination process verifies the numbers reported on the annual report. This is done partly by reviewing the documents (work papers) that you used to arrive at the figures reported. Typically, this may be a spreadsheet in which you have listed each loan, or a report generated by the software that you use.

Q Does New Hampshire have usury laws limiting interest rates on consumer loans?

A NO, New Hampshire does not currently have any statutory limits on consumer loan interest rates. Finance charges typically are such as may be contractually agreed upon by the consumer and the creditor.

Q Are there any laws, rules, or guidelines pertaining to internet lending and/or brokering of consumer loans?

A Internet lenders and brokers must be licensed by the Banking Department to engage in certain consumer transactions in New Hampshire. Internet entities must comply with all state licensing laws and regulations, as well as all federal requirements, regardless of whether the loan is an electronic or paper transaction.

Q If a creditor doesn't charge interest on a retail installment contract to finance a consumer's purchase of a motor vehicle, does that creditor still need a Sales Finance Company license?

A YES, a creditor must hold a current Sales Finance Company license to finance the purchase of a motor vehicle, regardless of the interest rate. The finance charge or rate of interest a creditor charges pursuant to a motor vehicle financing agreement does not affect the requirement that the creditor hold a valid Sales Finance Company license issued by the Banking Department.

Q I'm a residential mortgage broker and wish to start business immediately. Can I accept and process mortgage loan applications while I'm waiting to receive an approved Mortgage Broker license from the Banking Department?

A NO, a person may accept and process residential mortgage loan applications ONLY after having been issued a Mortgage Broker license from the Banking Department.

- Q RSA 397-A:5,II(c) requires that, at a minimum, all First Mortgage Banker applicants demonstrate a net worth of \$100,000 in cash or marketable securities. Is this amount required to be maintained at all times during the license period?
- A YES, a First Mortgage Banker licensee must maintain a minimum net worth of \$100,000 in cash, cash equivalents, marketable securities, or a surety bond, or a combination of those items, at all times during the period the First Mortgage Banker holds a license. Department examiners will verify that this statutory requirement is met during the course of licensee examinations.
- Q I am a licensed First Mortgage Banker subject to the provisions of RSA 397-A. I also engage in mortgage servicing activities as defined in RSA 397-B. Am I required to obtain another license of registration pursuant to RSA 397-B?
- A NO, in accordance with the provisions of RSA 397-B:10, any First Mortgage Banker or Broker, already licensed under RSA 397-A, that engages in mortgage servicing activities may conduct those activities without obtaining an additional Mortgage Servicer license pursuant to RSA 397-B. All other provisions of RSA 397-B, however, are applicable to any mortgage servicing activities the mortgage banker or broker may perform.
- Q My license expires on (date). I have sent in my renewal application. Will I have to cease operations if I do not receive my new license by the date of expiration on the old license?
- A If the Department has **received** your **complete** renewal application prior to the expiration date, the old license will remain in effect until a decision has been reached by the Department as to the issuance of a new license. You may continue to operate under the old license until further notice. If we have not received your **complete** application prior to the expiration date, then you must cease operations upon expiration of the old license. Note that application must be both received **and fully completed** prior to expiration of your previous year's license in order to continue to operate under the old license.
- Q Do I need a license if I'm doing only one mortgage loan in New Hampshire?
- A YES. You must hold a current valid license to broker or make **any** number of mortgage loans. The only exemptions are statutorily defined in RSA 397-A:4.
- Q My clients insist on seeing the new license on the wall! What can I do?
- A To ensure you have a new license issued by the time your old license expires, file your renewal application as early as possible, fully complete all items, and enclose all attachments. Incomplete applications are the most frequent cause of delays in issuing new licenses.
- Q I have a license (any type). Do I have to fill out the application to renew or can I just send in my fee?
- A All licensees are required to complete an application each year to renew their licenses. We require that all questions on the application be answered, leaving nothing blank. We also require certain documentation to be provided with each application, such as a **copy**, not the original, of the company's incorporation certificate, trade name certificate, or foreign corporation certificate if the company is located out of state. Certain licenses require bonding. The bonds must expire when the license expires. We cannot accept multiple year bonds. And please, don't forget to include your application fee!
- Q Our company table funds loans. Should we apply for a Mortgage Broker or Mortgage Banker license?
- A If loans are always closed in the name of your correspondent lender, you should apply for a First Mortgage Broker License. Please, make sure to check "Correspondent lender", answering question #15 ("How are loans funded?") in the license application. If occasionally, loans are closed in your name, you must apply for the First Mortgage Banker or the First Mortgage Banker/Broker license.

Q What is an “independent agent (contractor)”?

A Administrative Rule Ban 2403.01 defines an independent contractor (agent) as an individual who acts on behalf of a licensee, who is not paid wages as an employee of the licensee, but receives compensation by the licensee on a commission, contracted fee, or other basis. A simple rule of thumb to follow is if, for income tax purposes the licensee issues a W-2, the individual is considered an employee. An issuance of a 1099 indicates the individual is an independent contractor.

Q Does our company need to have a contract with independent agents?

A Yes, if your company utilize independent agents for the purpose of originating first mortgage loans in New Hampshire. Administrative Rule Ban 2409.01 indicates that the contracts must be in writing and prohibits the independent agent from entering into contracts with other licensees, i.e. the contract must show the agent is exclusive to the licensee.

Q I have a bonded dealers license. Do I still need a Retail Sellers license?

A Yes you do if you are going to arrange for the financing of motor vehicles. The bonded dealer license only allows your company to issue plates.

Q What is the procedure for filing a request for change in ownership of company?

A Provide the following:

- A cover letter detailing the change.
- Copy of filing with the **New Hampshire Secretary of State** regarding change of ownership.
- Copy of **home state** Secretary of State registration of the new name.
- Copy of **New Hampshire Secretary of State** registration of the new name.
- Original surety bond amendment/rider(s) to indicate new name.
- Personal Background & Financial Disclosure Statements on any new officers, owners, or directors.
- Authorization/Release Forms on any new officers, owners, or directors.
- Resumes for any new officers, owners, or directors.

Q What is the procedure for filing a request for change in company's name?

A Provide the following:

- A cover letter detailing the change.
- Return current original licenses to the New Hampshire Banking Department.
- Copy of **Home State Secretary of State** registration of the new name.
- Copy of **New Hampshire Secretary of State** registration of the new name.
- Original surety bond amendment/rider to indicate new name.
- Personal Release & Financial Disclosure Documents on any new officers, owners, or directors.

Q What is the procedure for a change of address?

A Provide the following:

- a cover letter detailing the change.
- Return of the current original license/s to this office.
- Provide original surety bond amendment/rider where applicable.
- Provide anticipated date of change.

Q What is the procedure for the surrender of Company's New Hampshire Licenses (ALL)?

A Provide the following:

- Return all current original license(s) to the New Hampshire Banking Department either in person or certified mail within 15 calendar days of cessation.
- Publish notice of surrender in newspaper of general circulation in your market area to such effect and provide copy of notice to this Department.
- File applicable Annual Report(s) - available on our web-site at [www.state.nh.us/banking](http://www.state.nh.us/banking).